2026:AHC:212419-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 343 of 2025

Committee Of Management School Society And Another
.....Appellant(s)

Versus

Committee Of Management School Society And 8 Others
.....Respondent(s)

Counsel for Appellant(s)	:	Grijesh Tiwari, Prabhakar Awasthi
Counsel for Respondent(s)	:	C.S.C., Ramesh Chandra Dwivedi

Court No. - 4

HON'BLE RAJAN ROY, J.
HON'BLE ARUN KUMAR, J.

1. List has been revised.

(C.M. Application No.01 of 2025-Leave to Appeal)

2. Heard.

3. This is an appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 by the appellants challenging an interim order dated 29.04.2025 passed in Writ-C No.9345 of 2025 [Committee Of Management School Society & Ors. vs. State of U.P. & Ors.].

4. The appeal is accompanied by an application seeking leave to appeal as the appellant no.1 was not a party before the writ court though it had been elected in the elections held on 02.03.2025 and was in control of the management on the date of passing of the interim order, therefore, the contention of learned counsel for the appellants on the application seeking leave to appeal is that appellant no.1 was/ is a necessary party before the writ court as the very elections on the basis of which it has been elected were under challenge apart from the order of the Assistant Registrar dated 15.01.2025, yet it had not been impleaded and without hearing it an interim order has been passed veritably granting final relief. Hence, this appeal.

5. We are of the opinion that appellant no.1 was a necessary party in the

writ petition but had not been impleaded as such it is entitled to maintain this appeal as it is directly prejudiced by the impugned order passed by writ court especially as elections had already been held in pursuance to the order of Assistant Registrar dated 15.01.2025 which has been stayed, accordingly, the application for leave to appeal is allowed.

(Order on memo of appeal)

6. Heard.

7. Parties have consented to argue the appeal finally today itself. An objection has been raised by learned counsel for the respondent regarding the very maintainability of the appeal as according to him it is directed against an interim order which does not decide any issue, therefore, according to him, the special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is not maintainable.

8. Learned counsel for the appellants, on the other hand, contended that by the interim order veritably the elections already held on 02.03.2025 in pursuance to the order of Assistant Registrar dated 15.01.2025 have been stayed/ nullified and inspite of the fact that consequent to such elections held on 02.03.2025, list of office bearers submitted to the Registrar under Section 4(1) of the Societies Registration Act, 1860 (in short 'the Act, 1860') had already been registered prior to passing of the interim order on 29.04.2025, therefore, virtually final relief has been granted at the interim stage, therefore, the Special Appeal is maintainable.

9. On merits of the matters, the contention of learned counsel for the appellants is that once the order dated 15.01.2025 passed by the Assistant Registrar had been given effect and elections had been held on 02.03.2025 as also the list of newly elected office bearers have been registered/ taken on record by the Registrar under Section 4(1) of the Act, 1860, there is no way that an interim order could have been passed by the writ court (in a writ petition filed subsequently) certainly not of the kind which has been passed in this case.

10. Having heard learned counsel for the parties and having perused the records, we are of the considered opinion that once the order dated

15.01.2025 had been given effect and elections to the governing body of the Society in question had been held on 02.03.2025 and the list of newly elected office bearers had already been submitted before the Registrar who took it on record under Section 4(1) of the Act, 1860 then there was no question of staying the order dated 15.01.2025 as it had already been given effect. Further, we find that except for noting the submission of rival parties, no reasons certainly not any exceptional reason for passing the impugned interim order has been given by the writ court. For all these reasons, we are of the opinion that the order impugned even though it has been passed at an interim stage, grants final relief to the respondent which could not have been done. Therefore, this special appeal is maintainable and in fact the order impugned for the reasons given hereinabove is liable to the set aside. Learned counsel for the respondent attempted to argue on merits of the issues pending consideration in the writ petition, however, we see no reason to consider the same in this appeal which arises from an interim order which does not dwell on the same especially as the writ petition is still pending. It shall be open for the learned writ court to decide the writ petition itself finally, at the earliest.

11. We, accordingly, quash the impugned order dated 29.04.2025 with liberty aforesaid. To facilitate the same, we direct the list Writ-C No.9345 of 2025 before the writ court on 26.10.2026. We request the learned Single Judge to consider disposal of the said writ petition at the earliest. Parties shall co-operate in disposal of the writ petition and shall not take unnecessary adjournments.

12. Accordingly, the special appeal is **allowed**.

(Arun Kumar,J.) (Rajan Roy,J.)

October 9, 2026
Shanu

Digitally signed by :-
SHANU SUMAN
High Court of Judicature at Allahabad